INDEX.

Subject Index.

	Page
Statement as to jurisdiction	1
Statutory provisions sustaining jurisdiction	2
Statutes involved	2
Date of decree and application for appeal	2
Nature of the case and rulings below	2
Cases believed to sustain jurisdiction	3
Final judgment	5

Table of Cases Cited.

Beckman et al. v. *Mall*, 63 Sup. Ct. 199	2, 6
Church of the Holy Trinity v. *United States*, 143 U. S. 457	3
Ozena v. *United States*, 260 U. S. 178	3
Piedmont and Southern Railway Co. v. *Interstate Commerce Commission*, 268 U. S. 299	3
Sorrells v. *United States*, 287 U. S. 435	3
Wickard v. *Filburn*, 63 Sup. Ct. 82	2, 6

Statutes Cited.

Act of August 14, 1937, Chapter 754, 50 Stat. 751	1
Agricultural Adjustment Act of 1938, as amended, and Public Law No. 74, First Session 77th Congress, approved May 26, 1941	2
Constitution of the United States:	
Article I:	
Section 1	2
Section 7	2
Section 8	2
Section 9	2
Article IV, Section 2	2
Article V	2
Article X	2
Article XIII	2

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

Civil Action No. 15347

KENNETH BENDER, Farmer, Clinton, Ohio; H. H. BECKMAN, Farmer, Clay Center, Kan.; CLYDE F. SNODGRASS, Farmer, Muddy Creek Forks, Pa.; and ALFRED LINDAUER, Farmer, Chelsea, Mich.;

Plaintiffs,

vs.

CLAUDE R. WICKARD, Individually and as Secretary of Agriculture of the United States of America, Department of Agriculture Building, the Hall Between 12th Street and 14th Street, S. W., Washington, D. C.,

Defendant.

STATEMENT AS TO JURISDICTION ON APPEAL.

In compliance with Rule 12 of the Rules of the Supreme Court of the United States, as amended, Kenneth Bender, H. H. Beckman, Clyde F. Snodgrass and Alfred Lindauer, Appellants herein, submit herewith their statement showing the bases of the jurisdiction of the Supreme Court on appeal.

a. Jurisdiction is conferred upon this Court to hear and determine the constitutional questions raised by this appeal, said authority and jurisdiction being founded upon the Act of Congress of August 14, 1937, Chapter 754, 50 Stat. 751.

b. The statutes of the United States, a construction of which is involved herein is the Act of Congress known and entitled as the Agricultural Adjustment Act of 1938, as amended, and Public Law No. 74, First Session, 77th Congress, approved May 26, 1941; also involved herein is the construction of the application of these provisions of the Constitution of the United States known and entitled as Article 1, Sections 1, 7, 8 and 9; Article 4, Section 2 and amendments to the Constitution, Articles 5 to 10, inclusive and also Article 13.

3. The decree sought to be reviewed was entered herein March 11, 1943, the Petition for Appeal was filed herein on March 18, 1943, and the Order Allowing Appeal was entered March 18, 1943.

d. The purpose of this action was and is to have decreed unconstitutional and invalid and ineffective the said Public Law No. 74 and the Sections 331 to 339, inclusive, of the Agricultural Adjustment Act relating to wheat quotas and control thereby of the amount of wheat planted and harvested and the disposition and sale thereof, as well as the use thereof by plaintiffs on their own premises in intrastate commerce and not in interstate commerce; as alleged in Plaintiffs' Complaint.

The action of the Lower Court was erroneous and prejudicial to the rights of plaintiffs in that said court, being a three-judge court, duly constituted under the statutes providing therefor, refused to permit plaintiffs to offer proof in regular hearing on the merits of their complaint, and held that the pleadings in the cause coupled with Plaintiffs' Offer of Proof presented no issues not heretofore decided by the United States Supreme Court in *Wickard* v. *Filburn*, 63 Supreme Court 82 and *Beckman, et al.*, v. *Mall, et al.*, 63 Supreme Court 199.

Plaintiffs say that there were presented by their Complaint and Offer of Proof, substantial, constitutional questions and that the final decree of the court dismissing their Complaint and thereby refusing to permit plaintiffs to put in their proof in support of the allegations of their complaint, raised specifically the question of a direct violation of their constitutional rights.

e. The questions presented are substantial and of great national importance and of vital importance to plaintiffs and many thousands of others, similarly situated. Said question particularly raises the issue: Whether or not the Agricultural Adjustment Act, and particularly Sections 331 to 339, inclusive, and Public Law No. 74, hereinabove referred to, are unconstitutional limitations upon the rights of plaintiffs as farmers and wheat growers and as Citizens of the United States.

f. The following cases sustain the jurisdiction of the Supreme Court to review the judgment of the District Court.

Church of the Holy Trinity v. *United States,* 143 U. S. 457;

Ozena v. *United States,* 260 U. S. 178;

Piedmont and Southern Railway Co. v. *Interstate Commerce Commission,* 268 U. S. 299 and

Sorrells v. *United States,* 287 U. S. 435.

A copy of the final judgment is appended hereto.

WILLIAM LEMKE,
House Office Building;
ROBERT H. MCNEILL,
1627 K Street, N. W.,
Attorneys for Plaintiffs.

March 18, 1943.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

Civil Action No. 15347

KENNETH BENDER, ET AL.,

Plaintiffs,

vs.

CLAUDE R. WICKARD, INDIVIDUALLY AND AS SECRETARY OF AGRICULTURE OF THE UNITED STATES,

Defendant.

FINAL JUDGMENT.

The above-entitled cause having come on for hearing on January 21, 1943, before Associate Justice Henry White Edgerton of the United States Court of Appeals for the District of Columbia, Chief Justice Edward C. Eicher of the District Court of the United States for the District of Columbia and Associate Justice F. Dickinson Letts of the District Court of the United States for the District of Columbia, constituting a statutory three-judge court assembled pursuant to the provisions of Section 3 of the Act of August 24, 1937, as amended, and the court having considered the pleadings and the statement of the case presented by counsel for the plaintiff and having heard counsel for the respective parties in argument

NOW FINDS that the complaint presents no issue which has not been decided by the Supreme Court of the United

States in *Wickard* v. *Filburn*, 63 S. Ct. 82, and *Beckman, et al.* v. *Mall, et al.*, 63 S. Ct. 199, and the second and third defenses in the defendant's answer should be sustained. It is thereupon Adjudged, Ordered and Decreed, that:

(1) the order of this Court herein, dated January 28, 1943, be set aside;

(2) the complaint be, and it is hereby, dismissed;

(3) the written offer of proof tendered by the plaintiffs be filed with the clerk of the court as part of the record before this Court.

Done at Washington, D. C., this 11th day of March, 1943.

(S.) HENRY WHITE EDGERTON,
Associate Justice of the Court of Appeals for the District of Columbia.

(S.) EDWARD C. EICHER,
Chief Justice of the District Court of the United States for the District of Columbia.

(S.) F. DICKINSON LETTS,
Associate Justice of the District Court of the United States for the District of Columbia.

Approved as to form:

(S.) R. H. MCNEILL,
(S.) WM. LEMKE,
Attorneys for Plaintiffs.

(S.) JOHN S. L. YOST,
Special Assistant to the Attorney General;
Attorney for the Defendant.